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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,091	03/12/2004	Christoph L. Schuba	SUN03-0216-SPL	8674
57960	7590	07/30/2007	EXAMINER	
SUN MICROSYSTEMS INC. C/O PARK, VAUGHAN & FLEMING LLP 2820 FIFTH STREET DAVIS, CA 95618-7759			BENGZON, GREG C	
		ART UNIT	PAPER NUMBER	
		2144		
		MAIL DATE	DELIVERY MODE	
		07/30/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/800,091	SCHUBA ET AL.
	<b>Examiner</b> Greg Bengzon	<b>Art Unit</b> 2144

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 12 March 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-27 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-27 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 12 March 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

This application has been examined. Claims 1-27 are pending.

### ***Priority***

The effective date of the claims described in this application is March 12, 2004.

### ***Information Disclosure Statement***

The Applicant is respectfully reminded that each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in 37 CFR 1.56.

There were no information disclosure statements filed with this application.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 10-18 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 10-18 is directed towards '*computer readable storage medium*', which the Applicant Specifications (Page 9) define as a carrier wave or data signals embodied in a carrier wave. The Examiner notes that said carrier wave or data signals embodied

in a carrier wave are non-statutory subject matter. The Examiner notes that absent some physical context, a signal per se is an abstract idea in much the same way that a mathematical algorithm without context is an abstract idea.

The Examiner notes that the Specifications do not sufficiently differentiate between a storage medium and a transmission medium.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-7 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1-7 are directed towards a 'method for resolving conflicts between network service rules' wherein the rules consist entirely of data structures and manipulation of said data structures result only in more data structures. Data structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer.

Claims 1-7 are directed towards a 'method for resolving conflicts between network service rules' wherein manipulation of said data structures are performed solely by a software algorithm (see Applicant Specifications Page 26-27). A claim for a

computer program, without the computer-readable medium needed to realize the computer program's functionality, is nonstatutory functional descriptive material.

Claims 1-7 are directed towards a 'method for resolving conflicts' wherein there are no tangible results. The Examiner notes that 'prepending an action list' consists solely of manipulation of data structures and thus results only on a data structure. The claims do not indicate any result affecting any computer or the network service.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Engbersen (US Publication 2002/0009076) in view Chan et al. (US Patent 6910028) further in view of what was well-known in the art.

Engbersen disclosed (re. Claim 1) a method for resolving conflicts between network service rules for network data traffic in a system where rule patterns with longer prefixes match before rule patterns with shorter prefixes, comprising: receiving a set of network service rules for network data traffic from multiple network services, (Engbersen-Figure 2, Paragraph 32, Paragraph 61) wherein network service rules from different network services can possibly conflict; (Engbersen-Figure 2, Paragraph 32, Paragraph 61) wherein each of the network service rules specifies, a filter that defines a prefix for a set of packets in the packet flow, and an action list that specifies one or more actions to be applied to the set of packets; identifying a conflict between a higher priority rule and a lower priority rule in the set of network service rules; (Engbersen – Figure 2 , Paragraph 32,Paragraph 61) and

While Engbersen substantially disclosed the claimed invention Engbersen did not disclose (re. Claim 1) resolving the conflict by prepending an action list of the higher priority rule to an action list of a rule with a filter that defines a longer prefix.

Chan disclosed (re. Claim 1) resolving the conflict by prepending an action list of the higher priority rule to an action list of a rule with a filter that defines a longer prefix. (Chan-Column 4 Lines 20-40,Column 9 Lines 40-50,Column 10 Lines 10-20)

The Examiner notes that Chan disclosed applying logic overrides and prioritizing as part of the merge policy in order to resolve any rule conflicts.

The Examiner further notes that at the time of the invention list ordering such that higher priority rules are listed first is well-known in the networking art.

Engbersen and Chan are analogous art because they present concepts and practices regarding resolving rule conflicts. At the time of the invention it would have been obvious to a person of ordinary skill in the art to combine Chan into Engbersen. The motivation for said combination would have been to provide a flexible assimilator for resolving rule conflicts (Chan-Column 3 Lines 20-30).

Claim 10-18 (re. computer-readable storage medium ) are rejected on the same basis as Claims 1-9.

Engbersen-Chan disclosed (re. Claim 10) receiving a set of network service rules for network data traffic from multiple network services, wherein network service rules from different network services can possibly conflict; wherein each of the network service rules specifies, a filter that defines a prefix for a set of packets in the packet flow, and an action list that specifies one or more actions to be applied to the set of packets; identifying a conflict between a higher priority rule and a lower priority rule in the set of network service rules; and resolving the conflict by prepending an action list of the higher priority rule to an action list of a rule with a filter that defines a longer prefix. (Chan-Column 4 Lines 20-40, Column 9 Lines 40-50, Column 10 Lines 10-20)

Claims 19-27 (re. an apparatus that resolves conflicts) are rejected on the same basis as Claims 1-9.

Engbersen-Chan disclosed (re. Claim 19) a receiving mechanism configured to receive a set of network service rules for network data traffic from multiple network services, wherein network service rules from different network services can possibly conflict; wherein each of the network service rules specifies, a filter that defines a prefix for a set of packets in the packet flow, and an action list that specifies one or more actions to be applied to the set of packets;

a conflict detection mechanism configured to identify a conflict between a higher priority rule and a lower priority rule in the set of network service rules; and a conflict resolution mechanism configured to resolve the conflict by prepending an action list of the higher priority rule to an action list of a rule with a filter that defines a longer prefix.

(Chan-Column 4 Lines 20-40, Column 9 Lines 40-50, Column 10 Lines 10-20)

Engbersen-Chan disclosed (re. Claim 2,11,20) wherein if the set of packets associated with the higher priority rule is equal to the set of packets associated with the lower priority rule, resolving the conflict involves creating a new action list for the higher priority rule (Engbersen-Paragraph 32) by prepending the action list of the higher priority rule to the action list of the lower priority rule. (Chan-Column 4 Lines 20-40, Column 9 Lines 40-50, Column 10 Lines 10-20)

Engbersen-Chan disclosed (re. Claim 3,12,21) wherein if the set of packets associated with the higher priority rule is a superset of the set of packets associated with the lower priority rule, resolving the conflict involves creating a new action list for

the lower priority rule (Engbersen-Paragraph 32) by prepending the action list of the higher priority rule to the action list of the lower priority rule. (Chan-Column 4 Lines 20-40, Column 9 Lines 40-50, Column 10 Lines 10-20)

Engbersen-Chan disclosed (re. Claim 4,13,22) wherein if the set of packets associated with the lower priority rule is a superset of the set of packets associated with the higher priority rule, resolving the conflict involves creating a new action list for the higher priority rule (Engbersen-Paragraph 32) by prepending the action list of the higher priority rule to the action list of the lower priority rule. (Chan-Column 4 Lines 20-40, Column 9 Lines 40-50, Column 10 Lines 10-20)

Engbersen-Chan disclosed (re. Claim 5,14,23) wherein if the set of packets associated with the lower priority rule intersects the set of packets associated with the higher priority rule, resolving the conflict involves: creating a new rule with a filter that defines the intersection of the set of packets associated with lower priority rule and the set of packets associated with the higher priority rule; (Engbersen-Paragraph 94-96)and creating an action list for the new rule by prepending the action list of the higher priority rule to the action list of the lower priority rule. (Chan-Column 4 Lines 20-40, Column 9 Lines 40-50, Column 10 Lines 10-20)

Engbersen-Chan disclosed (re. Claim 6,15,24) wherein prior to modifying a rule in the set of network service rules, the method further comprises cloning the rule to ensure that potential conflicts with rules that appear later in the set of network service rules are not overlooked.

The Examiner notes that the process of creating a duplicate copy of a data record before modification of said data record is well-known in the networking art.

Engbersen-Chan disclosed (re. Claim 7,16,25) wherein the priority of a given rule is based upon one or more of the following: a priority associated with a network service from which given rule originated; a count of the number of prefix bits (Engbersen-Paragraph 45) specified by the filter for the given rule; and a time stamp indicating when the given rule was incorporated into the set of network service rules.

Engbersen-Chan disclosed (re. Claim 8,17,26) wherein an action specified by a network service rule can include, but is not limited to: dropping a packet; gathering statistical information about the packet; controlling timer functions associated with the packet; modifying the packet; and passing the packet on. (Engbersen-Paragraph 2)

The Examiner notes that Claim 8 describes well-known packet forwarding and filtering actions.

Engbersen-Chan disclosed (re. Claim 9,18,27) wherein the multiple network services can include, but is not limited to: a firewall service; a service level agreement monitoring service; a load balancing service; a transport matching service; a failover service; and a high availability service. (Engbersen-Paragraph 2)

The Examiner notes that Claim 9 describes well-known network communication services and devices applying packet filtering rules.

### ***Conclusion***

**Examiner's Note:** Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

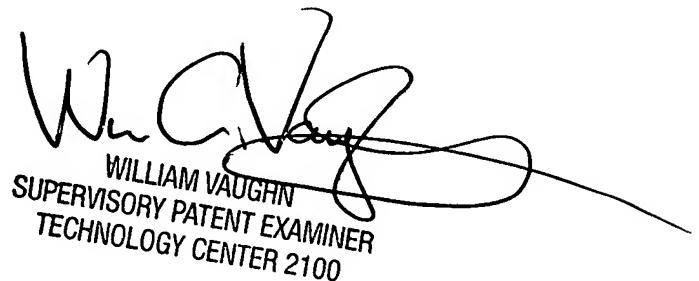
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please refer to the enclosed PTO-892 form.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Bengzon whose telephone number is (571) 272-3944. The examiner can normally be reached on Mon. thru Fri. 8 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on (571)272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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